

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT

UNITED STATES OF AMERICA	*
	*
V	*
	*
JED RUHL	* CRIMINAL FILE NO. 19-66

ARRAIGNMENT & PLEA TO INFORMATION
Monday, September 9, 2019
Burlington, Vermont

BEFORE:

THE HONORABLE WILLIAM K. SESSIONS III
Senior District Judge

APPEARANCES:

JOSEPH R. PERELLA, ESQ., Assistant United States
Attorney, Federal Building, Burlington, Vermont;
Attorney for the United States

STEVEN L. BARTH, ESQ., Assistant Federal Public
Defender, Office of the Federal Public Defender,
District of Vermont, 95 Pine Street, Suite
150, Burlington, Vermont; Attorney for the
Defendant

ANNE NICHOLS PIERCE
United States District Court Reporter (ret'd.)
fortherecordinvermont@gmail.com

1 MONDAY, SEPTEMBER 9, 2019

2 (The following was held in open court at 11:33 a.m.)

3 COURTROOM DEPUTY: This is case number 19-66,
4 United States of America versus Jeremiah Ruhl. The
5 government is present through Assistant United States
6 Attorney Joseph Perella. The defendant is present in
7 the courtroom with his attorney, Steven Barth.

8 The matter before the Court is an arraignment and
9 plea to an information

10 THE COURT: All right. Mr. Barth, my
11 understanding is that your client wishes to waive his
12 right to proceed by indictment on Count 1 and plead
13 guilty to Count 1 together with three counts of
14 migratory bird violations. Is that correct?

15 MR. BARTH: Correct. All of those in the
16 superseding information.

17 THE COURT: Yes.

18 All right. Mr. Ruhl, I am going to ask you a whole
19 series of questions. If you don't understand anything
20 that I ask, let me know; I would be glad to explain.
21 And, in addition, if you wish to speak with Mr. Barth,
22 let me know that. I will provide you an opportunity to
23 speak with him. Do you understand that?

24 THE DEFENDANT: Yes, I do, your Honor.

25 THE COURT: I am also going to ask that you be

1 placed under oath and would advise you if answer any
2 questions falsely, you could be prosecuted for perjury
3 or false swearing. Do you understand that?

4 THE DEFENDANT: Yes, I do, your Honor.

5 THE COURT: Okay. Would you place Mr. Ruhl
6 under oath, please.

7 (The defendant was sworn.)

8 THE COURT: Would you state your full name.

9 THE DEFENDANT: Jeremiah Ruhl.

10 THE COURT: And how old are you?

11 THE DEFENDANT: 44.

12 THE COURT: How far did you go through school?

13 THE DEFENDANT: I graduated Colchester High
14 School and took several years of college for a 15-year
15 period.

16 THE COURT: And have you been hospitalized for
17 drug or alcohol treatment?

18 THE DEFENDANT: I have been to several
19 in-house rehabs.

20 THE COURT: You were in Valley Vista for two
21 weeks?

22 THE DEFENDANT: Yes.

23 THE COURT: Are you receiving any treatment as
24 a result of that placement?

25 THE DEFENDANT: Yes.

1 THE COURT: What's the treatment?

2 THE DEFENDANT: I am going to outpatient
3 treatment three days a week.

4 THE COURT: Okay. But are you taking any
5 medication?

6 THE DEFENDANT: No, your Honor.

7 THE COURT: All right. Are you currently or
8 recently under the care of a physician or psychiatrist?

9 THE DEFENDANT: Primary care doctor, yes, your
10 Honor.

11 THE COURT: Okay. For any particular ailment?

12 THE DEFENDANT: No.

13 THE COURT: And have you taken any pills or
14 medication or consumed alcohol within the past 24 hours?

15 THE DEFENDANT: No.

16 THE COURT: Do you understand what's happening
17 today?

18 THE DEFENDANT: Yes, I do.

19 THE COURT: Do either counsel for the
20 defendant or government have any reason to believe that
21 Mr. Ruhl could not freely and voluntarily waive his
22 right to proceed by indictment and to proceed on the
23 information?

24 MR. BARTH: No, your Honor.

25 MR. PERELLA: No, your Honor.

1 THE COURT: Have you received a copy of the
2 information?

3 THE DEFENDANT: Yes, I have.

4 THE COURT: Do you wish that I read the
5 information into the record or would you waive its
6 reading?

7 THE DEFENDANT: I'll waive the reading. We
8 have gone over it and I understand it.

9 THE COURT: Okay. Have you had an adequate
10 opportunity to go over the information and the charges
11 in the information with your lawyer?

12 THE DEFENDANT: Yes.

13 THE COURT: Are you satisfied with the
14 representation he has provided?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Do you understand that in regard
17 to Count 1, which is a felony, that you have a right to
18 proceed by indictment of a grand jury but that you could
19 waive that right and to proceed on the information?

20 THE DEFENDANT: Yes, I do.

21 THE COURT: Do you understand that a grand
22 jury is made up of between 16 and 23 people, that at
23 least 12 grand jurors would have to find there's
24 probable cause to believe that you committed the offense
25 for which you have been charged?

1 THE DEFENDANT: Yes.

2 THE COURT: Do you wish to waive your right to
3 proceed by indictment and to proceed on the information?

4 THE DEFENDANT: Yes, I do.

5 THE COURT: And are you doing that freely and
6 voluntarily?

7 THE DEFENDANT: Yes.

8 THE COURT: All right. The Court is in
9 receipt of a waiver form which has been signed by the
10 defendant. Is that your signature --

11 THE DEFENDANT: Yes.

12 THE COURT: -- on the waiver form?

13 And prior to signing the agreement, did you read it
14 and go over this form with Mr. Barth?

15 THE DEFENDANT: Yes, I did.

16 THE COURT: And are you waiving your right to
17 proceed by indictment freely and voluntarily?

18 THE DEFENDANT: Yes, I am, your Honor.

19 THE COURT: All right. The Court will execute
20 the form as well, find that the waiver has been
21 exercised freely and voluntarily, and will accept it.

22 Now, has Mr. Barth gone over with you the nature
23 and the elements of each one of these offenses and gone
24 over with you any defenses that you may have?

25 THE DEFENDANT: Yes, your Honor.

1 THE COURT: All right. And I am going to go
2 through each of the four counts with you at this point.

3 First, do you understand the government would have
4 to prove beyond a reasonable doubt in Count 1 that
5 between in or about November 15, 2015, and December of
6 2016, in Vermont, you knowingly possessed a firearm in
7 and affecting interstate commerce after having been
8 convicted of a crime punishable by a term of
9 imprisonment exceeding one year, in other words, a
10 felony, and knowing that you had been convicted of such
11 a crime?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: And you understand the maximum
14 penalty for Count 1, and that's a period of imprisonment
15 of not more than 10 years, a fine of not more than
16 \$250,000, a term of supervised release of not more than
17 three years, together with a special assessment of \$100?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Do you understand that?

20 And do you understand the Court has the power if it
21 deems it appropriate to order that you pay for all costs
22 of imprisonment, probation or supervised release?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: And as to Count 1, how do you wish
25 to plead, guilty or not guilty?

1 THE DEFENDANT: Guilty.

2 THE COURT: All right. Now, in regard to
3 Counts 2, 3 and 4, let me go each -- go through each one
4 of those. It's a violation of the migratory bird act.

5 In Count 2, the government would have to prove
6 beyond a reasonable doubt that on or about March 18,
7 2016, in Vermont, you hunted, killed a migratory bird,
8 that's an American crow, you were not permitted to do so
9 because you had no license, your license had been
10 revoked, and the crow is protected by the migratory bird
11 act. Do you understand that?

12 THE DEFENDANT: Yes, I do.

13 THE COURT: In regard to Count 3, the
14 government would have to prove beyond a reasonable doubt
15 that on or about April 18, 2016, in Vermont, you did
16 not -- you did possess a migratory bird, that's a turkey
17 vulture, in violation of the migratory bird act. Do you
18 understand that?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: And in Count 4, the government
21 would have to prove beyond a reasonable doubt that on or
22 about October 19, 2016, in Vermont, you hunted, killed
23 and took a migratory bird, that's an American woodcock,
24 while not being permitted to do so by the State of
25 Vermont because your license had been revoked. And this

1 also was in violation of the migratory bird act. Do you
2 understand that?

3 THE DEFENDANT: Yes, I do.

4 THE COURT: And for each of these offenses, do
5 you understand the maximum penalty: It's a period of
6 imprisonment of not more than six months, a period of
7 probation of not more than --

8 MR. PERELLA: Five.

9 THE COURT: Five years, right. Okay.

10 A fine of not more than \$5,000, together with a \$10
11 special assessment? Do you understand that?

12 THE DEFENDANT: Yes, I do, your Honor.

13 THE COURT: And as to Counts 2, 3 and 4, how
14 do you wish to plead, guilty or not guilty?

15 THE DEFENDANT: Guilty.

16 THE COURT: All right. I am going to explain
17 to you all of your constitutional rights together with
18 the fact that you'd be waiving those rights by pleading
19 guilty today. I ask that you listen carefully to the
20 rights as I explain them, because at the end I am going
21 to ask that you acknowledge understanding those rights,
22 together with the fact that you'd be waiving those
23 rights by pleading guilty today. Do you understand
24 that?

25 THE DEFENDANT: Yes.

1 THE COURT: Do you understand that you have a
2 right to plead not guilty and to persist in that plea;
3 that you would then have the right to a trial by jury;
4 at trial you would be presumed to be innocent and the
5 government would have to prove your guilt beyond a
6 reasonable doubt; you'd have the right to the assistance
7 of counsel for your defense, the right to see and hear
8 all witnesses, have them cross examined in your defense;
9 the right on your own part to decline to testify unless
10 you voluntarily chose to do so; the right to the
11 issuance of subpoenas to require the attendance of
12 witnesses to testify in your defense; the right to
13 testify and the right to present evidence? Do you
14 understand those rights?

15 THE DEFENDANT: Yes.

16 THE COURT: Do you understand if you chose not
17 to testify or put on any evidence, those facts could not
18 be used against you in any way?

19 THE DEFENDANT: Yes, I do.

20 THE COURT: And do you understand that if you
21 plead guilty and I accept your plea, that you'd be
22 waiving your right to a trial and the other rights I
23 have just explained, there will be no trial, I will
24 accept your admission and order a presentence report,
25 impose sentence after considering the presentence

1 report?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: And do you understand that you'd
4 be waiving your right against self-incrimination and
5 your right to appeal the merits of your case?

6 THE DEFENDANT: Yes, I do.

7 THE COURT: Has anyone threatened you or
8 anyone else or forced you in any way to plead guilty
9 today?

10 THE DEFENDANT: No.

11 THE COURT: All right. The government is in
12 receipt of a plea agreement which bears your signatures
13 on page eight. Is that your signature on the last page?

14 THE DEFENDANT: Yes, it is, your Honor.

15 THE COURT: And prior to signing this
16 agreement, did you read it?

17 THE DEFENDANT: Yes.

18 THE COURT: Did you go over the agreement with
19 Mr. Barth?

20 THE DEFENDANT: Yes, I did.

21 THE COURT: And did you understand it?

22 THE DEFENDANT: I did.

23 THE COURT: All right. Let me go through the
24 high points of the agreement.

25 First, you'd waive your right to proceed by

1 indictment in regard to Count 1 and proceed on the
2 information, and according to this agreement you would
3 enter guilty pleas to Counts 1, 2, 3 and 4. The maximum
4 penalty I have described to you already. You have
5 agreed not to commit any other crimes, whether federal,
6 state or local. You have agreed to pay the \$100 special
7 assessment in regard to Count 1 and the \$10 assessments
8 in regards to Counts 2, 3 and 4, for a total of 130
9 months *[sic]*, and that in response, if you abided by the
10 terms of this agreement, the government would do the
11 following for you:

12 They would move to dismiss the indictment. They
13 will not charge you with any other offenses known by
14 them as of the date of the signing of this agreement
15 which relate to your possession of firearms or your
16 unlawful taking and possession of wildlife. They would
17 move to refer you to the Burlington federal drug court,
18 postpone sentencing, to participate fully in that
19 program.

20 In addition, they would recommend that you receive
21 credit for acceptance of responsibility provided that
22 you are truthful and honest with the probation officer
23 during the presentence process and no additional
24 information comes to the attention of the government
25 which bears on the question of acceptance of

1 responsibility. If your final offense level is 16 or
2 above, they will recommend a third point off. Do you
3 understand that?

4 THE DEFENDANT: Yes, I do, your Honor.

5 THE COURT: In addition, there's a recitation
6 of facts in the plea agreement, and that is in paragraph
7 four, and my understanding is by signing this agreement,
8 you agree to the facts as accurate in Count 4?

9 THE DEFENDANT: Yes, I do.

10 THE COURT: Is that correct?

11 THE DEFENDANT: Um hum.

12 THE COURT: Now, in addition, the government
13 has indicated that they have not made any promises or
14 predictions as to what sentence you are likely to
15 receive, and that also, if, in their own discretion, the
16 government determines that you violated this agreement,
17 they reserve the right to withdraw from the agreement
18 and prosecute you for any offenses they deem appropriate
19 or, alternatively, withdraw from their obligations under
20 the agreement while requiring you to maintain your
21 guilty plea. Do you understand that?

22 THE DEFENDANT: Yes, I do.

23 THE COURT: All right. In sum and substance,
24 those are the major parts of the agreement. Is that
25 consistent with your understanding?

1 THE DEFENDANT: It is, your Honor.

2 THE COURT: Have there been any other promises
3 or representations made by anyone that's induced you to
4 plead guilty today?

5 THE DEFENDANT: No.

6 THE COURT: Have you gone over the guidelines
7 with Mr. Barth?

8 THE DEFENDANT: Yes, I have.

9 THE COURT: Has anyone made any promises or
10 predictions as to what sentence you are likely to
11 receive?

12 THE DEFENDANT: No.

13 THE COURT: Do you understand that any
14 promises or predictions as to what sentence you are
15 likely to receive are not binding upon the Court? Based
16 upon your guilty plea, I could impose a sentence up to
17 the maximum permitted by law and that you would not have
18 the right to withdraw your plea if those predictions
19 proved to be inaccurate?

20 THE DEFENDANT: Yes, I do.

21 THE COURT: And do you understand that in some
22 circumstances the Court has the power to impose a
23 sentence that is more severe or less severe than the
24 guidelines called for, and if I were to impose a
25 sentence that was more severe, you still could not

1 withdraw your guilty plea?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Do you understand the guidelines
4 are now advisory in nature, and the Court will consider
5 all of the factors under 18 USC, section 3553(a) in
6 determining what is the appropriate sentence?

7 THE DEFENDANT: Yes.

8 THE COURT: And finally, in the federal
9 system, parole is abolished. If you are sentenced to
10 prison, you would not be released on parole. Do you
11 understand that?

12 THE DEFENDANT: Yes, I do.

13 THE COURT: I'm going to ask Mr. Perella to
14 provide a factual basis for the plea, to determine what
15 happened here. I'd ask that you listen carefully to his
16 explanation of the facts because at the end I am going
17 to ask whether those facts are accurate.

18 THE DEFENDANT: Yes.

19 THE COURT: All right? Okay, Mr. Perella.

20 MR. PERELLA: Yes, your Honor. And these are
21 facts stipulated to in paragraph four of the plea
22 agreement.

23 As to Count 1: From in or about November 2015 to
24 in or about December 2016, Jeremiah Ruhl knowingly
25 possessed a Stevens Savage Model 947A .410 shotgun,

1 serial number E404943. During this time period, the
2 defendant fired this shotgun multiple times to hunt
3 birds and rabbits in Vermont. At times the defendant
4 stored the shotgun at his residence in Colchester,
5 Vermont.

6 On August 1st, 2007, the defendant was convicted of
7 a crime punishable by a term of imprisonment exceeding
8 one year, that is forgery, in the district court of
9 Vermont, in the Chittenden Circuit, docket number
10 2924-3-07.

11 When Jeremiah Ruhl possessed the Stevens shotgun
12 from November 2015 to December of 2016, he knew he was
13 convicted of a crime punishable by a term of
14 imprisonment exceeding one year and was thus prohibited
15 from possessing this shotgun. And the Stevens shotgun
16 was manufactured outside of the state of Vermont.

17 As to Count 2: On or about March 18th, 2016, in
18 Chittenden County, Vermont, the defendant shot and
19 killed an American crow, Latin name *Corvus*
20 *brachyrhynchos*, with a .22 rifle. At the time Jeremiah
21 Ruhl did not possess a valid hunting license from the
22 state of Vermont.

23 As America -- as a matter of law, the American crow
24 is a migratory bird regulated under the Migratory Bird
25 Treaty Act.

1 Count 3: On or about April 18th, 2016, in
2 Chittenden County, the defendant, Jeremiah Ruhl, killed
3 and then possessed a turkey vulture, Latin name
4 *Cathartes aura*. Jeremiah Ruhl had no permit to possess
5 this turkey vulture at that time, and as a matter of
6 law, a turkey vulture is also a migratory bird regulated
7 under the Migratory Bird Treaty Act.

8 Finally, Count 4: On or about October 19th, 2016,
9 in Chittenden County, defendant Jeremiah Ruhl shot and
10 killed an American woodcock, Latin name *Scolopax minor*,
11 with the Stevens shotgun.

12 At the time Jeremiah Ruhl did not possess a valid
13 hunting license from the state of Vermont, and as a
14 matter of law, the American woodcock is a migratory bird
15 regulated under the Migratory Bird Treaty Act.

16 THE COURT: Is that what happened, Mr. Ruhl?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: Could the government prove those
19 facts, Mr. Barth?

20 MR. BARTH: Yes, your Honor.

21 THE COURT: All right. Since you acknowledge
22 that you are, in fact, guilty as charged, since you know
23 your right to a trial, the maximum possible sentences,
24 since you are voluntarily pleading guilty, I will accept
25 your guilty pleas. Do you still wish to plead guilty at

1 this point?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: And are you pleading guilty freely
4 and voluntarily with a full understanding of the nature
5 of the charges and the rights that you are waiving?

6 THE DEFENDANT: Yes.

7 THE COURT: Okay. You can be seated.

8 The Court, having questioned the defendant and
9 counsel on the offer of his plea, the defendant and
10 counsel having advised the Court they have conferred
11 concerning the offered plea and all aspects of the
12 charges against the defendant, any defenses he may have,
13 the Court having observed the defendant making his
14 answers, his demeanor and manner while answering
15 questions, his apparent intelligence, and his attitude,
16 the Court having observed the defendant does not appear
17 to be under the influence of any medication, drug or
18 other substance which may affect his judgment, the Court
19 hereby finds that the offer of the plea of guilty has a
20 factual basis, is free of any coercive influence of any
21 kind, is competently and voluntarily made with full
22 knowledge of the charges against him and the
23 consequences of his pleas, there have been no promises
24 of any kind made, apart from the statements set forth in
25 the plea agreement, and no threats or coercion have been

1 exerted upon him in any manner.

2 The Court will accept the guilty plea, defer
3 acceptance of the plea agreement, order a presentence
4 report.

5 All right. We are not going to schedule a
6 sentencing date at this point in light of the fact Mr.
7 Ruhl may be participating in the Burlington drug court.
8 So we will postpone actually scheduling the date for
9 sentencing.

10 So the Court has received a violation report from
11 the probation officer. The violation report alleges
12 that Mr. Ruhl has used cocaine on two separate
13 occasions.

14 Have you received a copy of that report, Mr. Barth?

15 MR. BARTH: I received a copy of it this
16 morning. I had been -- word had gotten to me about it.
17 Mr. Ruhl and I spoke about it last week, so I am aware
18 of it, yes.

19 THE COURT: All right. Does he admit or deny
20 that he has been in violation of his release --

21 MR. BARTH: He admits that.

22 THE COURT: -- terms?

23 MR. BARTH: He used cocaine on two occasions.

24 THE COURT: All right. Is that correct?

25 THE DEFENDANT: Yes, it is, your Honor.

1 THE COURT: All right. Mr. Ruhl, so tell me
2 what happened here.

3 THE DEFENDANT: I suppose I didn't take the
4 addiction problem I have as seriously as I should have,
5 and it caught me by surprise, and I used cocaine.

6 THE COURT: What prompted you to use cocaine?
7 You have attended Valley Vista?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: You successfully completed Valley
10 Vista?

11 THE DEFENDANT: Yes.

12 THE COURT: I have no doubt that Valley Vista
13 taught you various mechanisms by which you could deflect
14 use of drugs. What happened here?

15 THE DEFENDANT: They did, your Honor. I
16 suppose -- well, there was a couple of triggers that I
17 hadn't thought about because I didn't think that I would
18 be in that situation. One of them was actually seeing
19 the drug in front of me, and the other one was just
20 stress related, I guess. And that's why I --

21 THE COURT: So seeing the drug in front of you
22 prompted you to use it?

23 THE DEFENDANT: It did, your Honor, yes.

24 THE COURT: And you turned to drugs in
25 relation to stress in your life?

1 THE DEFENDANT: Yes, I did.

2 THE COURT: So how are you going to deal with
3 this in the future?

4 THE DEFENDANT: We're discussing that in my
5 classes now, and I -- or as far as seeing it in front of
6 me, I avoid people and places where the drug might be.
7 As far as stress goes, I am just trying to work through
8 the stressful situation now. It's of what's currently
9 going on in my life.

10 THE COURT: Is the treatment you are receiving
11 related both to your drug use but also to therapeutic
12 concerns that may arise generally out of your mental
13 health issue?

14 THE DEFENDANT: It is. We're dealing with --
15 or teaching me to deal with stress that arises, that I
16 suppose most people can deal with other ways, but for a
17 long time I have dealt with it with drugs. And so it's
18 a behavior that I am trying to curb.

19 THE COURT: All right. Well, I mean,
20 obviously it's a pretty grave concern that you used
21 drugs on really the night or just shortly before you are
22 going to be changing a plea on a felony charge in
23 federal court. That shows a real tremendous lapse in
24 judgment. But there are signs, positive signs -- I want
25 to tell you that having been on the bench for many

1 years, I look really closely at people's honesty and are
2 they honest in really assessing the scope of their
3 illness, of their addiction, in particular, or is this
4 disregarded or excuses made. And the fact is, what you
5 have just said strikes me as very honest, that you are
6 now recognizing that you have got a real significant
7 addiction problem.

8 And then the second thing that I really look to is
9 how honest you are with other people who are trying to
10 help you and, in particular, probation officers.
11 Because the probation officer is -- their job, number
12 one, is try to help people get through this process
13 constructively so that they can deal with their
14 addiction in a socially positive way. And you have, you
15 know, shown signs of, frankly, honesty. There's no
16 urine sample that came back. It's you -- you went to
17 your probation officer, at least in the second occasion,
18 in particular, and were honest.

19 All right, so I am not going to violate you at this
20 particular point. Place you -- put you back on the same
21 terms and conditions. I expect to see you on Thursday
22 at the Burlington drug court, but I want to make it
23 pretty clear -- real clear that slippage is not just
24 slippage. It's another federal crime. If you use drugs
25 while you are under federal supervision, you are

1 committing a federal offense under the supervision of a
2 federal officer, and as a result, there are consequences
3 to that.

4 THE DEFENDANT: Yes.

5 THE COURT: So from this point forward, I
6 don't anticipate that you will commit any more federal
7 offenses, that is using drugs while under supervision.

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: Okay. All right. Anything else?
10 Okay. Thank you.

11 MR. BARTH: Thank you.

12 MR. PERELLA: Thank you, your Honor.

13 (Court was in recess at 12:00 p.m.)

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18 C E R T I F I C A T I O N

19 I certify that the foregoing is a correct
20 transcript from the record of proceedings in the
above-entitled matter.

21



22 April 12, 2022
23 Date

Anne Nichols Pierce

24

25